

## REMARKS

### Claim Status & Amendments

Upon entry of this Amendment, claims 1-22 are pending, of which claim 1 is independent. Of the pending claims, none are currently amended. Thus, no new matter has been added.

### ***Rejections Under 35 U.S.C. § 103(a)***

#### Claims 1-9 and 13-22

Claims 1-9 and 13-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith *et al.* (EP 0 190 630, hereinafter “Smith”) in view of Krallmann *et al.* (CA 2,292,983, hereinafter “Krallmann”). This rejection is respectfully traversed.

Independent claim 1 recites, *inter alia*, an antimicrobial plastics foodstuff casing wherein the antimicrobial constituent is applied to the inner surface, or to the inner and outer surfaces of the casing. Applicant submits that neither Smith nor Krallmann discloses at least the aforementioned feature of independent claim 1.

Smith nowhere teaches a polymer-based plastics foodstuff casing, nor does it teach an antimicrobial polymer-based plastics foodstuff casing wherein the antimicrobial constituent is applied to the inner surface, or to the inner and outer surfaces of the casing. Neither do the other references cited suggest applying the antimicrobial constituent to the inner surface, or to the inner and outer surfaces of the casing. Therefore, withdrawal of the rejection is respectfully requested.

Smith does not teach polymer-based plastic casings as presently claimed. The food casings of Smith are based on cellulose (or starch), and do not suggest a “polymer-based plastics foodstuff casing” as claimed in the present claims. None of the references suggest completely modifying the teachings of Smith to produce a polymer-based plastic casing as claimed. Neither does the bath immersion of Smith, performed after preparation of the casing, into a continuous tube, teach applying the antimicrobial constituent to the inner surface, or to the inner and outer surfaces of the casing.<sup>1</sup>

---

<sup>1</sup> Smith, 20:17-21:1 (“A clear synthetic small diameter fibrous sausage casing is prepared by forming a long fiber hemp paper into a continuous tube which is passed through an annular die where a viscose dope ... is coated on both the inner and outer sidewalls saturating the web with a matrix.... [T]he casing is immersed in an aqueous preservative bath saturated with 1500 ppm of propyl paraben.”).

Krallmann relates to multilayered casings having a polyamide-based layer both on the inside and on the outside of the casings.<sup>2</sup> One having ordinary skill in the art would not combine this reference, which is directed to polymer casing, with the cellulose casing of Smith. Not only are the methods of producing the casings different, but the physical properties of the resulting casings are also different.

Regardless, even if combined, Krallman does not suggest applying the antimicrobial constituent to the inner surface, or to the inner and outer surfaces of the casing, as claimed. Thus, Applicants submit that Krallmann does not add anything that would remedy the aforementioned deficiency in Smith, and reconsideration and withdrawal of the rejection are respectfully requested. Neither Smith nor Krallmann alone or in combination, suggest applying the antimicrobial constituent to the inner surface, or to the inner and outer surfaces of the casing, as claimed.

Thus, the subject matter of claim 1 is not rendered unpatentable by Smith, Krallmann, or the combination thereof. Claims 2-9 and 13-22 depend from independent claim 1. Accordingly, Applicant respectfully requests favorable reconsideration and withdrawal of the rejection of claims 1-9 and 13-22 under 35 U.S.C. §103(a) as being unpatentable over Smith in view of Krallmann.

#### Claims 10-12

Claims 10-12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith *et al.* in view of Krallmann and further in view of Quinones *et al.* (U.S. Patent No. 6,183,826, hereinafter “Quinones”). This rejection is respectfully traversed.

Claims 10-12 depend, ultimately, from independent claim 1. Independent claim 1 recites, *inter alia*, an antimicrobial plastics foodstuff casing comprising propanediol.

Applicant submits that neither Smith nor Krallmann nor Quinones discloses at least the aforementioned feature of independent claim 1. In particular, it is submitted that the primary citation to Smith does not disclose the claimed casing. Accordingly, and without conceding the propriety of the asserted combination, the asserted combination of Smith, Krallmann, and Quinones is likewise deficient, even in view of the knowledge of one of ordinary skill in the art.

---

<sup>2</sup> Krallmann, at Abstract (“The tubular film laminate of the invention comprising [sic] an outside film and an inside film, both being polyamide-based, and at least one water barrier layer interposed therebetween.”).

Quinones, as with Smith, does not teach polymer-based plastic casings as presently claimed. The food casings of Quinones are based on cellulose, and do not suggest a “polymer-based plastics foodstuff casing” as claimed in the present claims.<sup>3</sup>

Neither Smith nor Krallmann nor Quinones, either alone or in combination, suggests an antimicrobial polymer-based plastics foodstuff casing wherein the antimicrobial constituent is applied to the inner surface, or to the inner and outer surfaces of the casing. Thus, Smith, Krallmann, Quinones, and any combination thereof cannot reasonably be interpreted as disclosing the aforementioned feature of independent claim 1.

Consequently, the subject matter of claim 1 is not rendered unpatentable by Smith, Krallmann, Quinones, or any combination thereof. Claims 10-12 depend from independent claim 1. Accordingly, Applicant respectfully requests favorable reconsideration and withdrawal of the rejection of claims 10-12 under 35 U.S.C. §103(a) as being unpatentable over Smith in view of Krallmann and further in view of Quinones.

### ***Conclusion***

In view of the remarks above, Applicant respectfully submits that the stated grounds for rejection have been properly addressed and that all of the claims are patentable, and so request favorable action thereon. The Examiner is invited to contact the undersigned if any additional information is required.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-4254, under Attorney Docket No. 2901886-000022

---

<sup>3</sup> Quinones, col. 7:9-13 (“A particularly desirable form of the invention is an encased meat sausage, and a most advantageous use and embodiment of the invention is on frankfurter-type sausage encased in a nonfibrous casing of regenerated cellulose.”).

Respectfully submitted,

**BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, P.C.**

/C.G. Moore/

Chester G. Moore, Ph.D.

Reg. No. 53,345

Telephone: 985-819-8420

Susan E. Shaw McBee

Registration No. 39,294

**DATED:** April 22, 2010

555 Eleventh Street, N.W.

Sixth Floor

Washington, DC 20004

Telephone: 202-508-3400

Facsimile: 202-508-3488